<table>
<thead>
<tr>
<th>1990 Text</th>
<th>2004 Text</th>
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<tbody>
<tr>
<td><strong>Article 1</strong>&lt;br&gt;Obligation to Extradite&lt;br&gt;Each Party agrees to extradite to the other, upon request and subject to the provisions of the present Treaty, any person who is wanted in the requesting State for prosecution for an extraditable offence or for the imposition or enforcement of a sentence in respect of such an offence.</td>
<td><strong>Article 1: OBLIGATION TO EXTRADITE</strong>&lt;br&gt;Each Party agrees to extradite to the other, upon request and subject to the provisions of the present Treaty, any person who is wanted in the requesting State for prosecution for an extraditable offence or for the imposition or enforcement of a sentence in respect of such an offence.</td>
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| **Article 2**<br>Extraditable offences<br>1. For the purposes of the present Treaty, extraditable offences are offences that are punishable under the laws of both Parties by imprisonment or other deprivation of liberty for a maximum period of at least [one/two] year(s), or by a more severe penalty. Where the request for extradition relates to a person who is wanted for the enforcement of a sentence of imprisonment or other deprivation of liberty imposed or such an offence, extradition shall be granted only if a period of at least [four/six] months of such sentence remains to be served. | **Article 2: EXTRADITABLE OFFENCES**<br>1. For the purposes of the present Treaty, extraditable offences are offences that are punishable under the laws of both Parties by imprisonment or other deprivation of liberty for a maximum period of at least [one/two] year(s), or by a more severe penalty. Where the request for extradition relates to a person who is wanted for the enforcement of a sentence of imprisonment or other deprivation of liberty imposed for such an offence, extradition shall be granted only if a period of at least [four/six] months of such sentence remains to be served. |

2. In determining whether an offence is an offence punishable under the laws of both Parties, it shall not matter whether:<br>(a) The laws of the Parties place the acts or omissions constituting the offence within the same category of offence or denominate the offence by the same terminology;<br>(b) Under the laws of the Parties the constituent elements of the offence differ, it being understood that the totality of the acts or omissions as presented by the requesting State shall be taken into account.

2. In determining whether an offence is an offence punishable under the laws of both Parties, it shall not matter whether:<br>(a) The laws of the Parties place the acts or omissions constituting the offence within the same category of offence or denominate the offence by the same terminology;<br>(b) Under the laws of the Parties the constituent elements of the offence differ, it being understood that the totality of the acts or omissions as presented by the requesting State shall be taken into account.
3. Where extradition of a person is sought for an offence against a law relating to taxation, customs duties, exchange control or other revenue matters, extradition may not be refused on the ground that the law of the requested State does not impose the same kind of tax or duty or does not contain a tax, customs duty or exchange regulation of the same kind as the law of the requesting State.

4. If the request for extradition includes several separate offences each of which is punishable under the laws of both Parties, but some of which do not fulfil the other conditions set out in paragraph 1 of the present article, the requested Party may grant extradition for the latter offences provided that the person is to be extradited for at least one extraditable offence.

<table>
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<tr>
<th>Article 3</th>
<th>MANDATORY GROUNDS FOR REFUSAL</th>
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<tr>
<td>Extradition shall not be granted in any of the following circumstances:</td>
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<tr>
<td>(a) If the offence for which extradition is requested is regarded by the requested State as an offence of a political nature. Reference to an offence of a political nature shall not include any offence in respect of which the Parties have assumed an obligation, pursuant to any multilateral convention, to take prosecutorial action where they do not extradite, or any other offence that the Parties have agreed is not an offence of a political character for the purposes of extradition;</td>
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<tr>
<td>(b) If the requested State has substantial grounds for believing that the request for extradition has been made for the purpose of prosecuting or punishing a person on account of that person's race, religion, nationality, ethnic, origin, political opinions, sex or status, or that that person's position may be prejudiced for any of those reasons;</td>
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<tr>
<td>(c) If the offence for which extradition is requested is an offence under military law, which is not also an offence under ordinary criminal law;</td>
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(b) If the requested State has substantial grounds for believing that the request for extradition has been made for the purpose of prosecuting or punishing a person on account of that person's race, religion, nationality, ethnic, origin, political opinions, sex or status, or that that person's position may be prejudiced for any of those reasons;
(d) If there has been a final judgment rendered against the person in the requested State in respect of the offence for which the person's extradition is requested;
(e) If the person whose extradition is requested has, under the law of either Party, become immune from prosecution or punishment for any reason, including lapse of time or amnesty;
(f) If the person whose extradition is requested has been or would be subjected in the requesting State to torture or cruel, inhuman or degrading treatment or punishment or if that person has not received or would not receive the minimum guarantees in criminal proceedings, as contained in the International Covenant on Civil and Political Rights, article 14;
(g) If the judgment of the requesting State has been rendered in absentia, the convicted person has not had sufficient notice of the trial or the opportunity to arrange for his or her defence and he has not had or will not have the opportunity to have the case retried in his or her presence.

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<thead>
<tr>
<th>Article 4</th>
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<td>(a) If the person whose extradition is requested is a national of the requested State. Where extradition is refused on this ground, the requested State shall, if the other State so requests, submit the case to its competent authorities with a view to taking appropriate action against the person in respect of the offence for which extradition had been requested;</td>
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<td>(b) If the competent authorities of the requested State have decided either not to institute or to terminate proceedings against the person for the offence in respect of which extradition is requested;</td>
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(c) If a prosecution in respect of the offence for which extradition is requested is pending in the requested State against the person whose extradition is requested;
(d) If the offence for which extradition is requested carries the death penalty under the law of the requesting State, unless that State gives such assurance as the requested State considers sufficient that the death penalty will not be imposed or, if imposed, will not be carried out. Where extradition is refused on this ground, the requested State shall, if the other State so requests, submit the case to its competent authorities with a view to taking appropriate action against the person for the offence for which extradition had been requested;
(e) If the offence for which extradition is requested has been committed outside the territory of either Party and the law of the requested State does not provide for jurisdiction over such an offence committed outside its territory in comparable circumstances;
(f) If the offence for which extradition is requested is regarded under the law of the requested State as having been committed in whole or in part within that State. Where extradition is refused on this ground, the requested State shall, if the other State so requests, submit the case to its competent authorities with a view to taking appropriate action against the person for the offence for which extradition had been requested;
(g) If the person whose extradition is requested has been sentenced or would be liable to be tried or sentenced in the requesting State by an extraordinary or ad hoc court or tribunal;
(h) If the requested State, while also taking into account the nature of the offence and the interests of the requesting State, considers that, in the circumstances of the case, the extradition of that person would be incompatible with humanitarian considerations in view of age, health or other personal circumstances of that person.

(c) If a prosecution in respect of the offence for which extradition is requested is pending in the requested State against the person whose extradition is requested;
(d) If the offence for which extradition is requested carries the death penalty under the law of the requesting State, unless that State gives such assurance as the requested State considers sufficient that the death penalty will not be imposed or, if imposed, will not be carried out. Where extradition is refused on this ground, the requested State shall, if the other State so requests, submit the case to its competent authorities with a view to taking appropriate action against the person for the offence for which extradition had been requested;
(e) If the offence for which extradition is requested has been committed outside the territory of either Party and the law of the requested State does not provide for jurisdiction over such an offence committed outside its territory in comparable circumstances;
(f) If the offence for which extradition is requested is regarded under the law of the requested State as having been committed in whole or in part within that State. Where extradition is refused on this ground, the requested State shall, if the other State so requests, submit the case to its competent authorities with a view to taking appropriate action against the person for the offence for which extradition had been requested;
(g) If the person whose extradition is requested has been sentenced or would be liable to be tried or sentenced in the requesting State by an extraordinary or ad hoc court or tribunal;
(h) If the requested State, while also taking into account the nature of the offence and the interests of the requesting State, considers that, in the circumstances of the case, the extradition of that person would be incompatible with humanitarian considerations in view of age, health or other personal circumstances of that person.
Article 5
Channels of communication and required documents
1. A request for extradition shall be made in writing. The request, supporting documents and subsequent communications shall be transmitted through the diplomatic channel, directly between the ministries of justice or any other authorities designated by the Parties.
2. A request for extradition shall be accompanied by the following:
   (a) In all cases, (i) As accurate a description as possible of the person sought, together with any other information that may help to establish that person's identity, nationality and location;
      (ii) The text of the relevant provision of the law creating the offence or, where necessary, a statement of the law relevant to the offence and a statement of the penalty that can be imposed for the offence;
   (b) If the person is accused of an offence, by a warrant issued by a court or other competent judicial authority for the arrest of the person or a certified copy of that warrant, a statement of the offence for which extradition is requested and a description of the acts or omissions constituting the alleged offence, including an indication of the time and place of its commission;
   (c) If the person has been convicted of an offence, by a statement of the offence for which extradition is requested and a description of the acts or omissions constituting the offence and by the original or certified copy of the judgment or any other document setting out the conviction and the sentence imposed, the fact that the sentence is enforceable, and the extent to which the sentence remains to be served;
   (d) If the person has been convicted of an offence in his or her absence, in addition to the documents set out in paragraph 2 (c) of the present article, by a statement as to the legal means available to the person to prepare his or her defence or to have the case retried in his or her presence;
   (e) If the person has been convicted of an offence but no sentence has been imposed,
by a statement of the offence for which extradition is requested and a description of the acts or omissions constituting the offence and by a document setting out the conviction and a statement affirming that there is an intention to impose a sentence.
3. The documents submitted in support of a request for extradition shall be accompanied by a translation into the language of the requested State or in another language acceptable to that State.

### Article 6
**Simplified extradition procedure**
The requested State, if not precluded by its law, may grant extradition after receipt of a request for provisional arrest, provided that the person sought explicitly consents before a competent authority.

### Article 6: SIMPLIFIED EXTRADITION PROCEDURE
The requested State, if not precluded by its law, may grant extradition after receipt of a request for provisional arrest, provided that the person sought explicitly consents before a competent authority.

### Article 7
**Certification and authentication**
Except as provided by the present Treaty, a request for extradition and the documents in support thereof, as well as documents or other material supplied in response to such a request, shall not require certification or authentication.

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### Article 8
**Additional information**
If the requested State considers that the information provided in support of a request for extradition is not sufficient, it may request that additional information be furnished within such reasonable time as it specifies.

### Article 8: ADDITIONAL INFORMATION
If the requested State considers that the information provided in support of a request for extradition is not sufficient, it may request that additional information be furnished within such reasonable time as it specifies.

### Article 9
**Provisional arrest**
1. In case of urgency the requesting State may apply for the provisional arrest of the person sought pending the presentation of the request for extradition. The application shall be transmitted by means of the facilities of the International Criminal Police Organisation, by post or telegraph or by any other means affording a record in writing.

### Article 9: PROVISIONAL ARREST
1. In case of urgency the requesting State may apply for the provisional arrest of the person sought pending the presentation of the request for extradition. The application shall be transmitted by means of the facilities of the International Criminal Police Organisation, by post or telegraph or by any other means affording a record in writing.
2. The application shall contain a description of the person sought, a statement that extradition is to be requested, a statement of the existence of one of the documents mentioned in paragraph 2 of article 5 of the present Treaty, authorizing the apprehension of the person, a statement of the punishment that can be or has been imposed for the offence, including the time left to be served and a concise statement of the facts of the case, and a statement of the location, where known, of the person.
3. The requested State shall decide on the application in accordance with its law and communicate its decision to the requesting State without delay.
4. The person arrested upon such an application shall be set at liberty upon the expiration of [40] days from the date of arrest if a request for extradition, supported by the relevant documents specified in paragraph 2 of article 5 of the present Treaty, has not been received. The present paragraph does not preclude the possibility of conditional release of the person prior to the expiration of the [40] days.
5. The release of the person pursuant to paragraph 4 of the present article shall not prevent rearrest and institution of proceedings with a view to extraditing the person sought if the request and supporting documents are subsequently received.

<table>
<thead>
<tr>
<th>Article 10</th>
<th>Decision on the request</th>
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<tbody>
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<td>1. The requested State shall deal with the request for extradition pursuant to procedures provided by its own law, and shall promptly communicate its decision to the requesting State.</td>
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<td>2. Reasons shall be given for any complete or partial refusal of the request.</td>
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sought and the requested State shall inform
the requesting State of the length of time for
which the person sought was detained with a
view to surrender.
2. The person shall be removed from the
territory of the requested State within such
reasonable period as the requested State
specifies and, if the person is not removed
within that period, the requested State may
release the person and may refuse to extradite
that person for the same offence.
3. If circumstances beyond its control prevent
a Party from surrendering or removing the
person to be extradited, it shall notify the
other Party. The two Parties shall mutually
decide upon a new date of surrender, and the
provisions of paragraph 2 of the present
article shall apply.

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<tr>
<th>Article 12</th>
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| Postponed or conditional surrender | 1. The requested State may, after making its
decision on the request for extradition,
postpone the surrender of a person sought, in
order to proceed against that person, or, if
that person has already been convicted, in
order to enforce a sentence imposed for an
offence other than that for which extradition
is sought. In such a case the requested State
shall advise the requesting State accordingly.
2. The requested State may instead of
postponing surrender, temporarily surrender
the person sought to the requesting State in
accordance with conditions to be determined
between the Parties. |

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<tr>
<th>Article 13</th>
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| Surrender of property | 1. To the extent permitted under the law of
the requested State and subject to the rights
of third parties, which shall be duly
respected, all property found in the requested
State that has been acquired as a result of the
offence or that may be required as evidence
shall, if the requesting State so requests, be
surrendered if extradition is granted.
2. The said property may, if the requesting
State so requests, be surrendered to the
the person sought and the requested State
shall inform the requesting State of the
length of time for which the person sought
was detained with a view to surrender.
2. The person shall be removed from the
territory of the requested State within such
reasonable period as the requested State
specifies and, if the person is not removed
within that period, the requested State may
release the person and may refuse to extradite
that person for the same offence.
3. If circumstances beyond its control prevent
a Party from surrendering or removing the
person to be extradited, it shall notify the
other Party. The two Parties shall mutually
decide upon a new date of surrender, and the
provisions of paragraph 2 of the present
article shall apply. |
requesting State even if the extradition agreed to cannot be carried out.
3. When the said property is liable to seizure or confiscation in the requested State, it may retain it or temporarily hand it over.
4. Where the law of the requested State or the protection of the rights of third parties so require, any property so surrendered shall be returned to the requested State free of charge after the completion of the proceedings, if that State so requests.

Article 14:
Rule of speciality
1. A person extradited under the present Treaty shall not be proceeded against, sentenced, detained, re-extradited to a third State, or subjected to any other restriction of personal liberty in the territory of the requesting State for any offence committed before surrender other than:
(a) An offence for which extradition was granted;
(b) Any other offence in respect of which the requested State consents. Consent shall be given if the offence for which it is requested is itself subject to extradition in accordance with the present Treaty.
2. A request for the consent of the requested State under the present article shall be accompanied by the documents mentioned in paragraph 2 of article 5 of the present Treaty and a legal record of any statement made by the extradited person with respect to the offence.
3. Paragraph 1 of the present article shall not apply if the person has had an opportunity to leave the requesting State and has not done so within [30/45] days of final discharge in respect of the offence for which that person was extradited or if the person has voluntarily returned to the territory of the requesting State after leaving it.

Article 15:
Transit
1. Where a person is to be extradited to a Party from a third State through the territory of the other Party, the Party to

State so requests, be surrendered to the requesting State even if the extradition agreed to cannot be carried out.
3. When the said property is liable to seizure or confiscation in the requested State, it may retain it or temporarily hand it over.
4. Where the law of the requested State or the protection of the rights of third parties so require, any property so surrendered shall be returned to the requested State free of charge after the completion of the proceedings, if that State so requests.

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(a) An offence for which extradition was granted;
(b) Any other offence in respect of which the requested State consents. Consent shall be given if the offence for which it is requested is itself subject to extradition in accordance with the present Treaty.
2. A request for the consent of the requested State under the present article shall be accompanied by the documents mentioned in paragraph 2 of article 5 of the present Treaty and a legal record of any statement made by the extradited person with respect to the offence.
3. Paragraph 1 of the present article shall not apply if the person has had an opportunity to leave the requesting State and has not done so within [30/45] days of final discharge in respect of the offence for which that person was extradited or if the person has voluntarily returned to the territory of the requesting State after leaving it.

Article 15:
TRANSIT
1. Where a person is to be extradited to a Party from a third State through the territory of the other Party, the Party to
of the other Party, the Party to which the person is to be extradited shall request the other Party to permit the transit of that person through its territory. This does not apply where air transport is used and no landing in the territory of the other Party is scheduled.

2. Upon receipt of such a request, which shall contain relevant information, the requested State shall deal with this request pursuant to procedures provided by its own law. The requested State shall grant the request expeditiously unless its essential interests would be prejudiced thereby.

3. The State of transit shall ensure that legal provisions exist that would enable detaining the person in custody during transit.

4. In the event of an unscheduled landing, the Party to be requested to permit transit may, at the request of the escorting officer, hold the person in custody for [48] hours, pending receipt of the transit request to be made in accordance with paragraph 1 of the present article.

**Article 16**
**Concurrent requests**
If a Party receives requests for extradition for the same person from both the other Party and a third State it shall, at its discretion, determine to which of those States the person is to be extradited.

**Article 17**
**Costs**
1. The requested State shall meet the cost of any proceedings in its jurisdiction arising out of a request for extradition.
2. The requested State shall also bear the costs incurred in its territory in connection with the seizure and handing over of property, or the arrest and detention of the person whose extradition is sought.
3. The requesting State shall bear the costs incurred in conveying the person from the territory of the requested State, including transit costs.

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1. The requested State shall meet the cost of any proceedings in its jurisdiction arising out of a request for extradition.
2. The requested State shall also bear the costs incurred in its territory in connection with the seizure and handing over of property, or the arrest and detention of the person whose extradition is sought.
3. The requesting State shall bear the costs incurred in conveying the person from the territory of the requested State, including transit costs.
Article 18
Final provisions
1. The present Treaty is subject to [ratification, acceptance or approval]. The instruments of [ratification, acceptance or approval] shall be exchanged as soon as possible.
2. The present Treaty shall enter into force on the thirtieth day after the day on which the instruments of [ratification, acceptance or approval] are exchanged.
3. The present Treaty shall apply to requests made after its entry into force, even if the relevant acts or omissions occurred prior to that date.
4. Either Contracting Party may denounce the present Treaty by giving notice in writing to the other Party. Such denunciation shall take effect six months following the date on which such notice is received by the other Party.

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2. The present Treaty shall enter into force on the thirtieth day after the day on which the instruments of [ratification, acceptance or approval] are exchanged.
3. The present Treaty shall apply to requests made after its entry into force, even if the relevant acts or omissions occurred prior to that date.
4. Either Contracting Party may denounce the present Treaty by giving notice in writing to the other Party. Such denunciation shall take effect six months following the date on which such notice is received by the other Party.
ANNEXURE-II

THE EXTRADITION ACT, 1962 *
ACT NO. 34 OF 1962
[15th September 1962.]
An Act to consolidate and amend the law relating to the extradition of fugitive criminals 1*[and to provide for matters connected therewith or incidental thereto]

BE it enacted by Parliament in the Thirteenth Year of the Republic of India as follows:-

CHAPTER I
PRELIMINARY

1. Short title, extent and commencement.

(1) This Act may be called the Extradition Act, 1962.

(2) It extends to the whole of India.

(3) It shall come into force on such date 2* as the Central Government may, by notification in the Official Gazette, appoint.

2. Definitions. In this Act, unless the context otherwise requires,--

3*[a) "composite offence" means an act or conduct of a person occurred, wholly or in part, in a foreign State or in India but its effects or intended effects, taken as a whole, would constitute an extradition offence in India or in a foreign State, as the case may be;]
3*(c) Extradition offence” means-

(i) in relation to a foreign State, being a treaty State, an offence provided for in the extradition treaty with that State;
(ii) in relation to a foreign State other than a treaty State an offence punishable with imprisonment for a term which shall not be less than one year under the laws of India or of a foreign State and includes a composite offence;


(d) "extradition treaty" means a treaty [agreement or arrangement] made by India with a foreign State relating to the extradition of fugitive criminals, and includes any treaty [agreement or arrangement] relating to the extradition of fugitive criminals made before the 15th day of August, 1947, which extends to, and is binding on, India;

(e) "foreign State" means any State outside India [xxx], and includes every constituent part, colony or dependency of such State;

1*[f) "fugitive criminal" means a person who is accused or convicted of an extradition offence within the jurisdiction of a foreign State and includes a person who, while in India, conspires, attempts to commit or incites or participates as an accomplice in the commission of an extradition offence in a foreign State.]

(g) "magistrate" means a magistrate of the first class or a presidency magistrate;

(h) "notified order" means an order notified in the Official Gazette;

(i) "prescribed" means prescribed by rules made under this Act; and

(j) "treaty State" means a foreign State with which an extradition treaty is in operation.

3. Application of Act. 2*[1) The Central Government may, by notified order, direct that the provisions of this Act, other than Chapter III, shall apply to such foreign State or part thereof as may be specified in the order.]

2) The Central Government may, by the same notified order as is referred to in subsection (1) or any subsequent notified order, restrict such application to fugitive criminals found, or suspected to be, in such part of India as may be specified in the order.

---------------------------------------------
1. Subs. & omitted by Act 66 of 1993, s. 4 (w.e.f. 18-12-1993)
2. Subs. by s. 5 ibid (w.e.f. 18-12-1993)
(3) Where the notified order relates to a treaty State,-

(a) it shall set out in full the extradition treaty with that State;

(b) it shall not remain in force for any period longer than that treaty; and

(c) the Central Government may, by the same or any subsequent notified order, render the application of this Act subject to such modifications, exceptions, conditions and qualifications as may be deemed expedient for implementing the treaty with that State.

1*(4) Where there is no extradition treaty made by India with any foreign State, the Central Government may, by notified order, treat any Convention to which India and a foreign State are parties, as an extradition treaty made by India with that foreign State providing for extradition in respect of the offences specified in that Convention.]

CHAPTER II

EXTRADITION OF FUGITIVE CRIMINALS TO FOREIGN STATES 2*** TO WHICH CHAPTER III DOES NOT APPLY

4. Requisition for surrender. A requisition for the surrender of a fugitive criminal of a foreign State 3*** may be made to the Central Government--

(a) by a diplomatic representative of the foreign State 3*** at Delhi; or

(b) by the Government of that foreign State 3*** communicating with the Central Government through its diplomatic representative in that State 1*** and if neither of these modes is convenient, the requisition shall be made in such other mode as is settled by arrangement made by the Government of the foreign State 3*** the Government of India.

5. Order for magisterial inquiry. Where such requisition is made, the Central Government may, if it thinks fit, issue an order to any magistrate who would have had jurisdiction to inquire into the offence if it had been an offence committed within the local limits of his jurisdiction, directing him to inquire into the case.

6. Issue of warrant for arrest. On receipt of an order of the Central Government under section 5, the magistrate shall issue a warrant for the arrest of the fugitive criminal.

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1. Ins. by Act 66 of 1993 s. 5 (w.e.f. 18-12-1993)
2. Omitted by s. 6, ibid (w.e.f. 18-12-1993)
3. Omitted by s. 3 ibid. (w.e.f. 18-12-1993)
7. Procedure before magistrate. (1) When the fugitive criminal appears or is brought before the magistrate, the magistrate shall inquire into the case in the same manner and shall have the same jurisdiction and powers, as nearly as may be, as if the case were one triable by a court of session or High Court.

(2) Without prejudice to the generality of the foregoing provisions, the magistrate shall, in particular, take such evidence as may be produced in support of the requisition of the foreign State and on behalf of the fugitive criminal, including any evidence to show that the offence of which the fugitive criminal is accused or has been convicted is an offence of political character or is not an extradition offence.

(3) If the magistrate is of opinion that a prima facie case is not made out in support of the requisition of the foreign State, he shall discharge the fugitive criminal.

(4) If the magistrate is of opinion that a prima facie case is made out in support of the requisition of the foreign State, he may commit the fugitive criminal to prison to await the orders of the Central Government, and shall report the result of his inquiry to the Central Government, and shall forward together with such report, any written statement which the fugitive criminal may desire to submit for the consideration of the Central Government.

8. Surrender of fugitive criminal. If, upon receipt of the report and statement under sub-section (4) of section 7, the Central Government is of opinion that the fugitive criminal ought to be surrendered to the foreign State, it may issue a warrant for the custody and removal of the fugitive criminal and for his delivery at a place and to a person to be named in the warrant.

9. Power of magistrate to issue warrant of arrest in certain cases. (1) Where it appears to any magistrate that a person within the local limits of his jurisdiction is a fugitive criminal of a foreign State, he may, if he thinks fit, issue a warrant for the arrest of that person on such information and on such evidence as would, in his opinion, justify the issue of a warrant if the offence of which the person is accused or has been convicted had been committed within the local limits of his jurisdiction.

(2) The magistrate shall forthwith report the issue of a warrant under sub-section (1) to the Central Government and shall forward the information, and the evidence or certified copies thereof to that Government.

(3) A person arrested on a warrant issued under sub-section (1) shall not be detained for more than three months unless within that period the magistrate receives from the Central Government an order made with reference to such person under section 5.

1. omitted by Act 66 of 1993, s. 3 (w.e.f 18-12-1993)
10. Receipt in evidence of exhibits, depositions and other documents and authentication thereof. (1) In any proceedings against a fugitive criminal of a foreign State under this Chapter, exhibits and depositions (whether received or taken in the presence of the person against whom they are used or not) and copies thereof and official certificates of facts and judicial documents stating facts may, if duly authenticated, be received as evidence.

(2) Warrants, depositions or statements on oath, which purport to have been issued or taken by any court of justice outside India or copies thereof, certificates of, or judicial documents stating the facts of, conviction before any such court shall be deemed to be duly authenticated if--

(a) the warrant purports to be signed by a judge, magistrate or officer of the State or country where the same was issued or acting in or for such State or country;

(b) the depositions or statements or copies thereof purport to be certified, under the hand of a judge, magistrate or officer of the State or country where the same were taken, or acting in or for such State or country, to be the original depositions or statements or to be true copies thereof, as the case may require;

(c) the certificate of, or judicial document stating the fact of, a conviction purports to be certified by a judge, magistrate or officer of the State or country where the conviction took place or acting in or for such State;

(d) the warrants, depositions, statements, copies, certificates and judicial documents, as the case may be, are authenticated by the oath of some witness or by the official seal of a minister of the State or country where the same were issued, taken or given.

11. Chapter not to apply to foreign states countries to which Chapter III applies.
Nothing contained in this Chapter shall apply to fugitive criminals to which Chapter III applies.

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1. Omitted by Act 66 of 1993, s. 3 (w.e.f. 18-9-1993).
2. Omitted by s. 7. ibid (w.e.f 18-12-19930.
CHAPTER III

RETURN OF FUGITIVE CRIMINALS TO [FOREIGN STATES] 2* WITH EXTRADITION ARRANGEMENTS

12. Application of Chapter. (1) This Chapter shall apply only to any such 3*[foreign state] to which, by reason of an extradition arrangement entered into with that 4*[State], it may seem expedient to the Central Government to apply the same.

(2) Every such application shall be by notified order, and the Central Government may, by the same or any subsequent notified order, direct that this Chapter and Chapters I, IV and V shall, in relation to any such 3*[foreign state], apply subject to such modifications, exceptions, conditions and qualifications as it may think fit to specify in the order for the purpose of implementing the arrangement.

13. Liability of fugitive criminals from foreign states to be apprehended and returned. Where a fugitive criminal of any 3*[foreign state] to which this Chapter applies is found in India, he shall be liable to be apprehended and returned in the manner provided by this Chapter to that 3*[foreign state].

14. Endorsed and provisional warrants. A fugitive criminal may be apprehended in India under an endorsed warrant or a provisional warrant.

15. Endorsed warrant for apprehension of fugitive criminal. Where a warrant for the apprehension of a fugitive criminal has been issued in any 3*[foreign state] to which this Chapter applies and such fugitive criminal is, or is suspected to be, in India, the Central Government may, if satisfied that the warrant was issued by a person having lawful authority to issue the same, endorse such warrant in the manner prescribed, and the warrant so endorsed shall be sufficient authority to apprehend the person named in the warrant and to bring him before and magistrate in India.

16. Provisional warrant for apprehension of fugitive criminal. (1) Any magistrate may issue a provisional warrant for the apprehension of a fugitive criminal from any commonwealth country to which this Chapter applies who is, or is suspected to be, in or on his way to India, on such information and under such circumstances as would, in his opinion, justify the issue of a warrant, if the offence of which the fugitive criminal is accused or has been convicted had been committed within his jurisdiction and such warrant may be executed accordingly.

1. Omitted by Act 66 1993 s. 8 (w.e.f. 18-12-1993)
2. Subs. by s. 9. ibid (w.e.f 18-12-1993)
3. Subs by s. 3 ibid. (w.e.f. 18-12-1993)
4. Subs s. 10. w.e.f 18-12-1993)
2. A magistrate issuing a provisional warrant shall forthwith send a report of the issue of the warrant together with the information or a certified copy thereof to the Central Government, and the Central Government may, if it thinks fit, discharge the person apprehended under such warrant.

3. A fugitive criminal apprehended on a provisional warrant may, from time to time, be remanded for such reasonable time, not exceeding seven days at any one time, as under the circumstances seems requisite for the production of an endorsed warrant.

17. Dealing with fugitive criminal when apprehended. (1) If the magistrate, before whom a person apprehended under this Chapter is brought, is satisfied on inquiry that the endorsed warrant for the apprehension of the fugitive criminal is duly authenticated and that the offence of which the person is accused or has been convicted is an extradition offence, the magistrate shall commit the fugitive criminal to prison to await his return and shall forthwith send to the Central Government a certificate of the committal.

(2) If on such inquiry the magistrate is of opinion that the endorsed warrant is not duly authenticated or that the offence of which such person is accused or has been convicted is not an extradition offence, the magistrate may, pending the receipt of the orders of the Central Government, detain such person in custody or release him on bail.

(3) The magistrate shall report the result of his inquiry to the Central Government and shall forward together with such report any written statement which the fugitive criminal may desire to submit for the consideration of that Government.

18. Return of fugitive criminal by warrant. The Central Government may, at any time after a fugitive criminal has been committed to prison under this Chapter, issue a warrant for the custody and removal to the commonwealth country concerned of the fugitive criminal and for his delivery at a place and to a person to be named in the warrant.

CHAPTER IV
SURRENDER OR RETURN OF ACCUSED OR CONVICTED PERSONS FROM FOREIGN STATES

19. Mode of requisition of form of warrant for the surrender or return to India of accused or convicted person who is in a foreign State. (1) A requisition for the surrender of a person accused or convicted of an extradition offence committed in India and who is, or is suspected to be, in any foreign State to which Chapter 111 does not apply, may be made by the Central Government-

(a) to be a diplomatic representative of that State or country at Delhi; or
(b) to the Government of that State or country through the diplomatic representative of India in that State and if neither of these modes is convenient there requisition made by the Government of India with that State.

2. a warrant issued by a Magistrate in India for the apprehension of any person who is, or is suspected to be, in any [foreign State] to which Chapter 111 applies shall be in such form as may be prescribed.

20. Conveyance of accused or convicted person surrendered or returned. Any person accused or convicted of an extradition offence who is surrendered or returned by a foreign State or 2*** may, under the warrant of arrest for his surrender or return issued in such State or country, be brought into India and delivered to the proper authority to be dealt with according to law.

21. Accused or convicted person surrendered or returned by foreign State not to be tried for certain offences. Whenever any person accused or convicted of an offence, which, if committed in India would be an extradition offence, is surrendered or returned by a foreign State, such person shall not, until he has been restored or has had an opportunity of returning to that State, be tried in India for an offence other than--

(a) the extradition offence in relation to which he was surrendered or returned; or

(b) any lesser offence disclosed by the facts proved for the purposes of securing his surrender or return other than an offence in relation to which an order for his surrender or return could not be lawfully made; or

(c) the offence in respect of which the foreign State has given its consent.

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1. Omitted by Act 66 of 1993 s. 11 (w.e.f 18-12-1993).
2. Omitted & Subs. by s. 3 ibid. (w.e.f. 18-12-1993).
3. Subs. by s. 12, ibid (w.e.f. 18-12-1993).
CHAPTER V
MISCELLANEOUS

22. Liability of fugitive criminals to be arrested and surrendered or returned. Every fugitive criminal of a foreign State shall, subject to the provisions of this Act, be liable to be arrested and surrendered or returned, whether the offence in respect of which the surrender or return is sought was committed before or after the commencement of this Act, and whether or not a court in India has jurisdiction to try that offence.

23. Jurisdiction as to offences committed at sea or in air. Where the offence in respect of which the surrender or return of a fugitive criminal is sought was committed on board any vessel on the high seas or any aircraft while in the air outside India or the Indian territorial waters which comes into any port or aerodrome of India, the Central Government and any magistrate having jurisdiction in such port or aerodrome may exercise the powers conferred by this Act.

24. Discharge of person apprehended if not surrendered or returned within two months. If a fugitive criminal who, in pursuance of this Act, has been committed to prison to await his surrender or return to any foreign State is not conveyed out of India within two months after such committal, the High Court, upon application made to it by or on behalf of the fugitive criminal and upon proof that reasonable notice of the intention to make such application has been given to the Central Government, may order such prisoner to be discharged unless sufficient cause is shown to the contrary.

25. Release of persons arrested on bail. In the case of a person who is a fugitive criminal arrested or detained under this Act, the provisions of the 2[Code of Criminal Procedure, 1973] (2 of 1974) relating to bail shall apply in the same manner as they would apply if such person were accused of committing in India the offence of which he is accused or has been convicted, and in relation to such bail, the magistrate before whom the fugitive criminal is brought shall have, as far as may be, the same powers and jurisdiction as a court of session under that Code.

26. Abetment of extradition. offences. A fugitive criminal who is accused or convicted of abetting, conspiring, attempting to commit, inciting or participating as an accomplice in the commission of any extradition offence shall be deemed for the purposes of this Act to be accused or convicted of having committed such offence and shall be liable to be arrested and surrendered accordingly.

27. Lawfulness of, and re-taking on escape from, custody under warrants. It shall be lawful for any person to whom a warrant is directed for the apprehension of a fugitive criminal to hold in custody and convey the person mentioned in the warrant to the place named in the warrant, and if such person escapes out of any custody to which

1. Omitted by act 66 of 1993, s. 3 (w.e.f 18-12-1993).
2. Subs. by s. 13, ibid (w.e.f 18-12-1993)
he may be delivered in pursuance of such warrant, he may be re-taken as a person accused of an offence against the law of India may be re-taken upon an escape.

28. **Property found on fugitive criminal.** Everything found in the possession of a fugitive criminal at the time of his arrest which may be material as evidence in proving the extradition offence may be delivered up with the fugitive criminal on his surrender or return, subject to the rights, if any, of third parties with respect thereto.

29. **Power of Central Government to discharge any fugitive criminal.** If it appears to the Central Government that by reason of the trivial nature of the case or by reason of the application for the surrender or return of a fugitive criminal not being made in good faith or in the interests of justice or for political reasons or otherwise, it is unjust or inexpedient to surrender or return the fugitive criminal, it may, by order, at any time stay any proceedings under this Act and direct any warrant issued or endorsed under this Act to be cancelled and the person for whose arrest the warrant has been issued or endorsed to be discharged.

30. **Simultaneous requisitions.** If requisitions for the surrender of a fugitive criminal are received from more than one foreign State, the Central Government may, having regard to the circumstances of the case, surrender the fugitive criminal to such State or country as that Government thinks fit.

31. **Restrictions on surrender.** 3*[(1)] A fugitive criminal shall not be surrendered or returned to a foreign State 4***.

(a) if the offence in respect of which his surrender is sought is of a political character or if he proves to the satisfaction of the magistrate or court before whom he may be produced or of the Central Government that the requisition or warrant for his surrender has, in fact, been made with a view to try or punish him for an offence of a political character;

(b) if prosecution for the offence in respect of which his surrender is sought is according to the law of that State or country barred by time;

1*[(c) unless provision is made by that law of the foreign State or in the extradition treaty with the foreign State that the fugitive criminal shall not be determined or tried in that State for an offence other than--

(i) the extradition offence in relation to which he is to be surrendered or returned;
(ii) any lesser offence disclosed by the facts proved for the purposes of securing his surrender or return other than an offence in relation to which an order for his surrender or return could not be lawfully made; or

(iii) the offence in respect of which the Central Government has given its consent;

(d) if he has been accused of some offence in India, not being the offence for which his surrender or return is sought, or is undergoing sentence under any conviction in India until after he has been discharged, whether by acquittal or on expiration of his sentence or otherwise;

(e) until after the expiration of fifteen days from the date of his being committed to prison by the magistrate.

1*(2) For the purposes of sub-section (1), the offence specified in the Schedule shall not be regarded as offences of a political character.

(3) The Central Government having regard to the extradition treaty made by India with any foreign State may, by notified order, add or omit any offence from the list given in the Schedule.]

32. Sections 29 and 31 to apply without any modification thereof. Notwithstanding anything to the contrary contained in section 3 or section 12, the provisions of sections 9 and 31 shall apply without any modification to every foreign State.

33. Act not to affect the Foreigners Act, 1946. Nothing in this Act shall affect the provisions of the Foreigners Act, 1946, (31 of 1946), or any order made thereunder.

2*[34. Extra territorial jurisdiction. An extradition offence committed by any person in a foreign State shall be deemed to have been committed in India and such person shall be liable to be prosecuted in India for such offence.

34A. Prosecution on refusal to extradition. Where the Central Government is of the opinion that a fugitive criminal cannot be surrendered or returned pursuant to a request for extradition from a foreign State, it may, as it thinks fit, take steps to prosecute such fugitive criminal in India.

34B. Provisional arrest. (1) On receipt of an urgent request from a foreign State for the immediate arrest of a fugitive criminal, the Central Government may request the Magistrate having competent jurisdiction to issue a provisional warrant for the arrest of such fugitive criminal.

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1. Subs. & Ins by Act 66 of 1993, s. 16 (w.e.f. 18-12-1993).
2. Subs. by s. 17. ibid (w.e.f. 18-12-1993).
(2) A fugitive criminal arrested under sub-section (1) shall be discharged upon the expiration of sixty days from the date of his arrest if no request for his surrender or return is received within the said period.

34C. Provision of life imprisonment for death penalty. Notwithstanding anything contained in any other law for the time being in force, where a fugitive criminal, who has committed an extradition offence punishable with death in India, is surrendered or returned by a foreign State on the request of the Central Government and the laws of that foreign State do not provide for a death penalty for such an offence, such fugitive criminal shall be liable for punishment of imprisonment for life only for that offence.”

35. Notified orders and notifications to be laid before Parliament. Every notified order made or notification issued under this Act shall, as soon as may be after it is made or issued, be laid before each House of Parliament.

36. Power to make rules. (1) The central Government may, by notification in the Official Gazette, make rules to carry out the purposes of this Act.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:

(a) the form in which a requisition for the surrender of a fugitive criminal may be made;
(b) the form in which a warrant for the apprehension of any person in a [foreign state] to which Chapter III applies may be made;
(c) the manner in which any warrant may be endorsed or authenticated under this Act;
(d) the removal of fugitive criminals accused or in custody under this Act and their control and maintenance until such time as they are handed over to the persons named in the warrant as entitled to receive them;
(e) the seizure and disposition of any property which is the subject of, or required for proof of, any alleged offence to which this Act applies;
(f) the form and manner in which or the channel through which a magistrate may be required to make his report to the Central Government under this Act;
(g) any other matter which has to be, or may be, prescribed.

(3) Every rule made under this section shall be laid as soon as may be after it is made before each House of Parliament while it is in session for a total period of thirty days which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so however that any such
modification or annulment shall be without prejudice to the validity of anything previously done under that rule.

37. **Repeals and savings.** (1) The Indian Extradition Act, 1903 (15 of 1903), and any law corresponding thereto in force at the commencement of this Act in the territories which, immediately before the 1st day of November, 1956, were comprised in Part B States and the North East Frontier Agency and Tuensang District (Extradition) Regulation, 1961 (3 of 1961), are hereby repealed.

(2) The Extradition Acts, 1870 to 1932 (33 and 34 Vict. c. 52; 36 and 37 Vict. c. 60; Edw. 7, c. 15; 22 and 23 Geo. 5, c. 39, 44 and 45 Vict. c. 69.) and the Fugitive Offenders Act, 1881, in so far as they apply to and operate as part of the law of India, are hereby repealed.

1. Subs. by Act 66 of 1993, s. 3, (w.e.f 18-12-1993)
2. Subs. by Act 4 of 1986, s. 2 and sch. (w.e.f 15-5-1986).

**THE SCHEDULE**

[See Sec.31(2)]

**Offences, which are not to be Regarded as Offences of a Political Character**

The following list of offences is to be construed according to the law in force in India on the date of the alleged offence. Wherever the names of the relevant Acts are not given, the sections referred to are the sections of the Indian Penal Code (45 of 1860):-

5. Culpable homicide, murder Sections 299 to 304).
6. Voluntarily causing hurt or grievous hurt by a dangerous weapon or means (Sections 321 to 333).
7. Offences under the Explosive Substances Act, 1908 (6 of 1908).
8. Possession of a fire-arm or ammunition with intention to endanger life [Sec.27 of the Arms Act, 1959 (54 of 1959)].
9. The use of a fire-arm with intention to resist or prevent the arrest or detention [Sec.28 of the Arms Act, 1959 (54 of 1959)].
10. Causing of loss or damage to property used for public utilities or otherwise with intention to endanger life (Sec.425 read with section 440).
11. Wrongful restraint and wrongful confinement (Sec. 339 to 348).
12. Kidnapping and abduction including taking of hostages (Secs. 339 to 348).
14. Abetting, conspiring or attempting to commit, inciting,
    participating as an accomplice in the commission of any of the offences listed above.]

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